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## OFFICE OF THE CITY CLERK

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# REPORT

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DATE: August 11, 1999

REPORT NO: 99-05

SUBJECT: PROPOSED AMENDMENTS TO THE SAN DIEGO MUNICIPAL  
LOBBYING ORDINANCE

### ISSUE

The Municipal Lobbying Ordinance was adopted by the City Council on May 18, 1998. The new ordinance replaced the City's former "Municipal Advocates" ordinance which had been in effect since 1973. In the course of implementing the new ordinance and in conversations with the City Attorney's Office, we have recognized the need to make some minor housekeeping amendments in order to provide better administration and enforcement of the ordinance.

### RECOMMENDATION

Adopt the amendments to the lobbying ordinance as proposed.

### DISCUSSION

Sections 27.4001 through 27.4028 of the Municipal Code govern municipal lobbying activity. We are proposing a number of housekeeping amendments to clarify the intent of the ordinance, to provide for better administration, and to assist with enforcement.

Specifically, the proposed amendments are as follows:

a. In section 27.4002 (Definitions) a definition for "Contract" and "Enforcement Authority" has been added. The definition of "In-House Lobbyist" has been clarified to include any individual who engages in lobbying solely on behalf of his or her business or employer. It includes, but is not limited to, owners, officers, and salaried employees of a business. The definition of "Compensation" has been modified to reflect this expanded definition of "In-House Lobbyist."

b. Section 27.4004 (Exceptions) has been amended to better reflect the many types of contracts which may be negotiated with the City. It further provides that such agreements may be authorized by the City Council, the City Manager, or the voters.

c. Sections 27.4012 (Amendments to Registration Form) and 27.4015 (Quarterly Disclosure Report Required) have been amended to provide that a lobbyist may use the quarterly report form to disclose any change in information required on the registration form. This will provide a streamlined process for lobbyists to report information to the Clerk in a timely manner. Additionally, the provision for an expanded report form has been eliminated from Section 27.4015. Very few lobbyists have made use of this form, and it has frequently been completed incorrectly.

d. Section 27.4025 (Powers and Duties of the City Clerk) has been amended to clarify that before sending a notice of registration requirements, based on a written request, the Clerk shall require the person making the request to provide a written statement of the factual basis for such a request. It has been further amended to give the Clerk the authority to determine whether sufficient facts exist to warrant sending the notice. This amendment is necessary because of the numerous recent requests the Clerk has received, and the Clerk's current lack of discretion in this area. This section has been further amended to reduce the time the Clerk must keep lobbyist reports to make the retention period consistent with other parts of the ordinance.

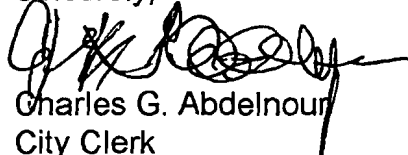
e. Section 27.4027 (Audits) has been eliminated and replaced with "Enforcement Authority; Duties, Complaints Legal Action, Investigatory Powers." The new language in this section delineates the role of the enforcement authority with regard to the lobbying ordinance.

f. New language has been added to section 27.4028 (Violations, Penalties and Defenses) to clarify that the statute of limitations begins with the discovery of a violation of the ordinance. It is similar to existing provisions of the Campaign Control Ordinance.

#### SUMMARY

In summary, the City Clerk proposes these amendments in order to clarify certain provisions of the lobbying ordinance to ensure better administration and enforcement. I look forward to your consideration of these amendments, and, as always, should you have any questions or comments, I would be pleased to respond.

Sincerely,

  
Charles G. Abdelnour  
City Clerk

CGA:JL

cc: City Attorney  
City Manager

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

ADOPTED ON \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER II, ARTICLE 7,  
DIVISION 40 OF THE SAN DIEGO MUNICIPAL CODE BY  
AMENDING SECTIONS 27.4002, 27.4004, 27.4012, 27.4015  
AND 27.4025; BY REPEALING SECTION 27.4027; BY  
REENACTING NEW SECTION 27.4027; BY AMENDING  
SECTION 27.4028, ALL RELATING TO MUNICIPAL  
LOBBYING.

BE-IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter II, Article 7, Division 40 of the San Diego Municipal Code be  
and the same is hereby amended by amending Section 27.4002 to read as follows:

**SEC. 27.4002 Definitions**

All defined terms in this division appear in italics. The first  
letter of each term defined in this division is capitalized. Unless the  
context otherwise indicates, the defined terms have the meanings  
set forth below.

*"Activity Expense"* No change in text.

*"Agent"* No change in text.

*"City"* No change in text.

*"City Board"* No change in text.

*"City Official"* No change in text.

*"Client"* No change in text.

*"Committee"* No change in text.

*"Compensated Services"* No change in text.

*"Compensation"* means any economic consideration for services rendered, other than reimbursement for *Travel Expenses*.

*"Contract"* includes but is not limited to written contracts, agreements, memoranda of understanding, and similar writings that set forth transactions involving personal property, real property, intellectual property, personal services, consultant services, public works, or insurance. For purposes of this division, *"contract"* and *"agreement"* are synonymous. The definition of *"contract"* is intended to be broadly construed.

*"Day"* No change in text.

*"Direct Communication"* No change in text.

*"Enforcement Authority"* has the same meaning as that term is defined in Section 27.2903.

*"Gift"* No change in text.

*"Influencing a Municipal Decision"* No change in text.

*"In-House Lobbyist"* means an individual who engages in *Lobbying* solely on behalf of his or her business or employer. *"In-House Lobbyist"* includes, but is not limited to, owners, officers, and salaried employees of a business.

*"Lobbying"* No change in text.

*"Lobbyist"* No change in text.

*"Municipal Decision"* No change in text.

*"Payment"* No change in text.

*"Person"* No change in text.

*"Public Hearing"* No change in text.

*"Public Official"* No change in text.

*"Travel Expenses"* No change in text.

Section 2. That Chapter II, Article 7, Division 40 of the San Diego Municipal Code be and the same is hereby amended by amending Sections 27.4004, 27.4012, 27.4015 and 27.4025 to read as follows:

**SEC. 27.4004 Exceptions**

The following *Persons* are exempt from the requirements of this division:

(a) No change in text.

(b) No change in text.

(c) any *Person* whose sole activity includes one or more of

the following:

(1) to submit a bid on a competitively bid *contract*;

(2) to submit a written response to a request for proposals

or qualifications;

(3) to participate in an oral interview for a request for

proposals or qualifications; or,

(4) to negotiate the terms of a *contract* or agreement with the City, once the City has authorized, either by action of the City Council, City Manager, or voters, entering an agreement with that *Person*, whether that *Person* has been selected pursuant to a bid, request for proposals or qualifications, or by other means of selection recognized by law.

#### **SEC. 27.4012 Amendments to Registration Form**

Except as provided in Section 27.4015(b), *Lobbyists* shall file amendments to their registration form with the next quarterly disclosure report, and shall disclose any change in information required on the registration form as set forth in Section 27.4009.

#### **SEC. 27.4015 Quarterly Disclosure Report Required**

(a) *Lobbyists* shall file quarterly disclosure reports for every calendar quarter during which they retain their status as a *Lobbyist*.

(b) In lieu of amending the registration form, a *Lobbyist* may use the quarterly report to disclose any change in information required on the registration form as set forth in Section 27.4009.

(c) The *Lobbyist* shall file with the City Clerk the report with an original signature.

#### **SEC. 27.4025 Powers and Duties of the City Clerk**

(a) Upon receipt of a written request, the City Clerk may issue a notice of registration requirements to any *Person* whom a

*City Official* or any other *Person* has reason to believe should be registered under this division. Before sending the notice, the Clerk:

(1) shall require the *Person* making the request to provide a written statement of the factual basis for the belief; and,

(2) shall determine whether sufficient facts exist to warrant sending the notice.

(b) No change in text.

(c) No change in text.

(d) The City Clerk shall preserve all registration forms and quarterly disclosure reports required to be filed under this division for a period of five years from the date of filing. These registration forms and quarterly disclosure reports shall constitute part of the public records of the Clerk's office, and shall be open to public inspection. Copies shall be made available by the Clerk upon request and payment of any lawful copy charges.

(e) The City Clerk shall report apparent violations of this division to the *Enforcement Authority*.

(f) No change in text.

Section 3. That Chapter II, Article 7, Division 40 of the San Diego Municipal Code be and the same is hereby amended by repealing the existing Section 27.4027 and reenact it in its entirety to read as follows:

**SEC. 27.4027 Enforcement Authority: Duties, Complaints,  
Legal Action, Investigatory Powers**

(a) The *Enforcement Authority* shall enforce the provisions of this division.

(b) Any *Person* who believes that violation of any portion of this division has occurred may file a complaint with the *Enforcement Authority*. If the *Enforcement Authority* determines that there is reason to believe a violation of this division has occurred, it shall make an investigation. Whenever the *Enforcement Authority* has reason to believe a violation of this division has occurred or is about to occur, it may institute such legal action at such time as it deems necessary to prevent further violations.

(c) The *Enforcement Authority* shall have such investigative powers as are necessary for the performance of the duties prescribed in this division. The *Enforcement Authority* may demand and shall be furnished records of *Lobbying Activity Expenses* at any time.

(d) The *Enforcement Authority* shall determine whether required statements and declarations have been filed as required and, if so, whether they conform with the requirements of this division.



Section 4. That Chapter II, Article 7, Division 40 of the San Diego Municipal Code be and the same is hereby amended by amending Section 27.4028 to read as follows:

**SEC. 27.4028 Violations, Penalties and Defenses**


(a) - (d) No change in text.

(e) Any limitation of time prescribed by law within which prosecution for a violation of any part of this division must be commenced shall not begin to run until the City's discovery of the violation.

Section 5. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By   
Cristie C. McGuire  
Deputy City Attorney

CCM:jrl  
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09/16/99 Cor. Copy  
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